

ANTHONY FINERSON,)
)
 Petitioner,)
)
 v.) No. 4:13CV1989 JCH
)
 RICHARD BRESNAHAN,)
)
 Respondent.)

This matter is before the Court on petitioner’s motion for leave to proceed in forma pauperis and petition for writ of mandamus.

Pursuant to 28 U.S.C. § 1915(b)(1), a prisoner bringing a civil action in forma pauperis is required to pay the full amount of the filing fee. If the prisoner has insufficient funds in his or her prison account to pay the entire fee, the Court must assess and, when funds exist, collect an initial partial filing fee of 20 percent of the greater of (1) the average monthly deposits in the prisoner's account, or (2) the average monthly balance in the prisoner's account for the prior six-month period. After payment of the initial partial filing fee, the prisoner is required to make monthly payments of 20 percent of the preceding month's income credited to the prisoner's account. 28 U.S.C. § 1915(b)(2). Plaintiff has submitted an affidavit and a certified copy of his prison account statement for the six-month period immediately preceding

the submission of his complaint. A review of plaintiff's account indicates an average monthly deposit of \$151.75, and an average monthly balance of less than \$151.75. Plaintiff has insufficient funds to pay the entire filing fee. Accordingly, the Court will assess an initial partial filing fee of \$30.35, which is 20 percent of plaintiff's average monthly deposit.

Petitioner did not sign his petition for writ of mandamus. "The court must strike an unsigned paper unless the omission is promptly corrected after being called to the . . . party's attention." Fed. R. Civ. P. 11. As a result, the Court will order the Clerk to return the petition to petitioner so that petitioner may sign it and return it to the Court for filing. If petitioner fails to comply with this Order, this case will be dismissed without prejudice.

Accordingly,

IT IS HEREBY ORDERED that petitioner's motion to proceed in forma pauperis [Doc. 2] is **GRANTED**.

IT IS FURTHER ORDERED that the plaintiff shall pay an initial filing fee of \$30.35 within thirty (30) days of the date of this Order. Plaintiff is instructed to make his remittance payable to "Clerk, United States District Court," and to include upon it: (1) his name; (2) his prison registration number; (3) the case number; and (4) that the remittance is for an original proceeding.

IT IS FURTHER ORDERED that the Clerk shall return the petition [Doc. 1] to petitioner.

IT IS FURTHER ORDERED that petitioner shall sign the petition and return it to the Court within thirty (30) days of the date of this Order.

IT IS FURTHER ORDERED that if petitioner fails to comply with this Order, this case will be dismissed without prejudice.

Dated this 10th day of October, 2013.

/s/ Jean C. Hamilton
JEAN C. HAMILTON
UNITED STATES DISTRICT JUDGE